

REMARKS

This application has been reviewed in light of the Office Action dated September 6, 2006. Claims 1-35 are presented for examination, of which Claims 1, 5, 9, 13, 17, 22, 26, 31, and 35 are in independent form. Claims 26 and 31-34 have been amended purely as to matters of form and not to overcome any claim rejection in the Office Action. Favorable reconsideration is requested.

The specification has been amended to correct clerical and/or typographical errors and to make it consistent with the drawings. Applicants respectfully submit that the changes to the specification add no new matter to the original disclosure.

An Information Disclosure Statement and a corresponding PTO-1449 form were submitted on December 26, 2001, as evidenced by the attached copy of the PTO-1449 form obtained from the PAIR system of the U.S. Patent and Trademark Office. As shown on the attached copy, the non-patent documents listed towards the bottom of the page were not acknowledged as having been considered, but also were not crossed off as being improper. (Electronic copies of the non-patent documents are available on the PAIR system.) Applicants respectfully request the Examiner to return an initialed copy of the PTO-1449 form, indicating that the non-patent documents listed thereon have been considered and made of record in the present application.

The Office Action states that Claims 1-35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2001/0042023 (Anderson et al.) in view of U.S. Patent No. 6,970,825 (Altendahl et al.). Applicants respectfully traverse the rejections and submit that independent Claims 1, 5, 9, 13, 17, 22, 26, 31, and 35, together with

the claims dependent therefrom, are patentably distinct from the cited prior art for at least the following reasons.

Claim 1 is directed to a method for delivering goods ordered by a plurality of customers. According to the method, customers place orders for multiple goods from a vendor that maintains a server on a network. For each of the multiple goods in an order placed by a given customer, the server determines whether the good is currently available at a local pick-up point geographically close to the given customer, and treats each such good separately depending on whether the good is currently available at the local pick-up point. In a case where the good is currently available at the local pick-up point, the server ear-marks that good for the given customer. In a case where the good is not currently available at the local pick-up point, the server fulfills the order of the given customer by causing the good to be shipped to the local pick-up point in a single shipping order in combination with goods ordered by others from among the plurality of customers who are also geographically close to the local pick-up point.

One of the notable features of Claim 1 is that, if a good needed by the customer is not available at the local pick-up point, then the server causes the good to be shipped to the local pick-up point. The shipment of the good is combined with the shipment of other goods ordered by customers who are geographically close to the local pick-up point. By virtue of this feature, the customer has an easy and efficient shopping experience: If the customer needs several goods, the customer simply orders the goods via the network without having to go from store to store, which may be at different locations, to obtain all the needed goods. Instead, the goods needed by the customer all may be picked up at the local pick-up point. Additionally, because the needed goods are picked up by the customer at the local pick-up point, *at the customer's convenience*, the customer does not have to worry about having someone wait at home for a

delivery, for example. Further, because the shipment of the good is consolidated with the shipment of other goods ordered by other customers who are geographically close to the local pick-up point, the method provides the additional benefit of reduced shipping costs for the vendor as well as the customers.

Anderson et al. relates to an order fulfillment system in which a buyer submits an order to the system and the system shows the order to a first group of suppliers who are nearest to the buyer's shipping address. If the order cannot be fulfilled by the first group of suppliers within a set period of time, such as 5 minutes, then the system shows the order to a second group of suppliers that are next-nearest to the buyer's shipping address. If the order cannot be fulfilled by the second group of suppliers within the set period of time, then the system shows the order to a third group of suppliers that are next-next-nearest to the buyer's shipping address, and so on. (See paragraph [0021], for example.) The system is focused on fulfilling the order as quickly as possible. In fact, Anderson et al. specifies that the "critical factor is to give priority to the nearest eligible supplier by virtue of an exclusive time period while, within a reasonable amount of time, finding a supplier for scarce infrequently stocked products." (See paragraph [0082].)

Apparently, the order is either delivered or shipped to the buyer's shipping address, and no provision is made for the buyer to pick up the order at a local pick-up point that is geographically close to the buyer. (See paragraphs [0027] and [0035], for example.) According to the method of Claim 1, however, the customer may pick up an order at a local pick-up point *at the customer's convenience*. The customer does not have to worry about having someone wait at home for a delivery or a shipment.

Anderson et al. allows *any* supplier to fulfill the order, as long as the supplier is located within a zone permitted to fulfill the order. That is, there is no other constraint on the

supplier, and the buyer does not know which supplier will end up fulfilling the order. Therefore, the quality of the ordered goods may vary from supplier to supplier, which can lead to dissatisfaction of the buyer. Unlike the method of Claim 1, Anderson et al. does not provide for the buyer to have control over who the vendor is. In Claim 1, the customer picks the vendor that will fulfill the order and therefore the customer is given some degree of control over the quality.

Additionally, because Anderson et al. is silent regarding the use of a local pick-up point where a buyer picks up an order placed over a network, Anderson fails to teach or suggest the feature of, “[i]n a case where the good is not currently available at the local pick-up point, the vendor server fulfilling the order of the given customer by causing the good to be shipped to the local pick-up point in a single shipping order in combination with goods ordered by others from among the plurality of customers who are also geographically close to the local pick-up point,” as claimed in Claim 1. The system described in Anderson et al. is designed to expedite an individual order from a buyer and not on orders placed by a plurality of customers. Therefore, the system fails to provide any motivation for consolidating shipments for multiple customers to minimize shipping costs. That is, no motivation or suggestion is provided to ship a good ordered by a customer in combination with goods ordered by other customers who are geographically close to a local pick-up point, as claimed in Claim 1. Instead, the primary aim of the system is to process an order as quickly as possible, without regard to shipping costs and therefore without consolidating shipments for different orders destined for the same local pick-up point. In fact, Anderson et al. may even *teach away* from combining shipments for different orders, because commissions are paid per order (see paragraph [0043]), and consequently there is an incentive to act on individual orders *separately* and not to consolidate shipments. Further, Anderson et al. teaches that an order may be *split up* among different suppliers in order to expedite processing of

the order (see paragraph [0083]), which is opposite to the feature of shipping a good ordered by a customer in combination with goods ordered by other customers to a local pick-up point geographically close to the customer and the other customers, as claimed in Claim 1.

The above-described deficiency of Anderson et al. is acknowledged in the Office Action, which states that Anderson et al. “does not specifically mention that back-ordered items are consolidated within other shipments to the local pickup point.” The Office Action alleges that Altendahl et al. remedies this deficiency. Applicants respectfully disagree.

Altendahl et al. relates to a planning program or engine that plans the shipping of parcels. Altendahl et al. states that in the planning process “it is desirable to examine opportunities to consolidate the parcels.” (See column 1, lines 48-50.) More specifically, “[i]n attempting to consolidate shipments, the consolidator 25 searches the batch of shipments for all shipments having matching required properties. Usually these will include the shipper, consignee, and shipment date.” (See column 8, lines 23-26.) Applicants respectfully submit, however, that Altendahl et al. fails to teach or suggest fulfilling an order by causing an ordered good that is not available at a local pick-up point to be shipped to the local pick-up point in combination with goods for other orders. The consolidation procedure of Altendahl et al. merely looks to ship parcels together if the parcels come from the same shipper, have the same shipping date, and are destined for the same consignee.

Applicants submit that a combination of Anderson et al. and Altendahl et al., assuming such combination would even be permissible, would fail to teach or suggest a method for delivering goods ordered by a plurality of customers, in which, “for each of the multiple goods in an order placed by a given customer, the vendor server determining whether the good is currently available at a local pick-up point geographically close to the given customer, and

treating each such good separately depending on whether the good is currently available at the local pick-up point, as follows: (i) in a case where the good is currently available at the local pick-up point, the vendor server ear-marking that good for the given customer, and (ii) in a case where the good is not currently available at the local pick-up point, the vendor server fulfilling the order of the given customer by causing the good to be shipped to the local pick-up point in a single shipping order in combination with goods ordered by others from among the plurality of customers who are also geographically close to the local pick-up point,” as recited in Claim 1.

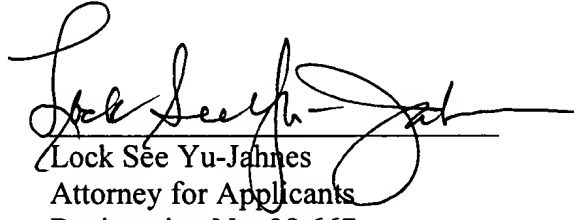
Accordingly, Applicants submit that Claim 1 is patentable over the cited references and therefore respectfully request withdrawal of the rejection under 35 U.S.C. § 103(a). Independent Claims 5, 9, 13, 17, 22, 26, 31, and 35 include a feature similar to that discussed above in connection with Claim 1, in which, if a good needed by the customer is not available at the local pick-up point, then the vendor server causes the good to be shipped to the local pick-up point along with other goods ordered by other customers. Therefore, those claims also are believed to be patentable for at least the reasons discussed above. Additionally, the other rejected claims in this application depend from one or another of independent Claims 1, 5, 9, 13, 17, 22, 26, 31, and 35 and therefore are submitted to be patentable for at least the same reasons. Because each dependent claim also is deemed to define an additional aspect of the invention, however, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

CONCLUSION

Applicants' undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,


Lock See Yu-Jahnes
Attorney for Applicants
Registration No. 38,667

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

NY_Main 604636_1



FOR PTO 1449 (modified) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE LIST OF REFERENCES CITED BY APPLICANT(S) (Use several sheets if necessary)				ATTY DOCKET NO. 2280.2710		APPLICATION NO. 09/855,558	
				APPLICANTS ROBERT W. TUTTURP ET AL.			
				FILING DATE May 16, 2001		GROUP 2161	
U.S. PATENT DOCUMENTS							
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE	
~	5,758,329	5/26/98	Wojcik et al.	705	28		
~	5,068,797	11/26/91	Sansone et al.	364	478		
~	5,717,989	2/10/98	Tozzoli et al.	705	37		
~	US 2001/0027471A1	10/4/01	Paulose et al.	709	203		
FOREIGN PATENT DOCUMENTS							
	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES/NO/ OR ABSTRACT	
OTHER DOCUMENT(S) (including Author, Title, Date, Pertinent Pages, Etc.)							
		Paul Huppertz, "Market Changes Require New Supply Chain Thinking", Transportation & Distribution; Cleveland; March 1999, vol. 40, Issue 3, pages 1-4.					
		Colin Barrett, "Combining Bills of Lading"; Traffic World; Washington: Feb. 1, 1999, vol. 257, Issue: 5. (*Abstract only*)					
		"E-Logistics: The Brave New World of Online Market Places", Logistics Management and Distribution Report; Radnor; Apr. 2000, Supplement: e-logistics, start page E19-E23.					
EXAMINER <i>[Signature]</i>				DATE CONSIDERED <i>7/30/4</i>			

RECEIVED
DEC 28 2001
Technology Center 2100

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.